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AUTHOR Fremstad, Shawn
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ABSTRACT

Until the 1996 welfare law (which conditioned eligibility on citizenship status) was passed, legal immigrants were generally as eligible for public benefits as citizens. The immigrant restrictions have proven to be extremely controversial. In 1997, Congress restored Supplemental Security Income to most immigrants who were already in the country when the law was enacted. In 1998, it restored food stamp eligibility for immigrant children and elderly and disabled people who had been here before August 1996. More than one in five low-income children in the United States now live in noncitizen families. Among immigrant adult welfare recipients, 69 percent do not have a high school diploma, as opposed to 37 percent of native-born recipients. Legislation to further restore benefits has been introduced in each subsequent Congressional session. Support for restoring benefits crosses ideological and partisan lines. This paper examines immigrant eligibility for benefits, which varies among federal programs; state government and judicial responses to immigrant restrictions; trends in welfare participation by immigrant households; increases in hardship and uninsurance; immigrants who remain eligible for the Temporary Assistance for Needy Families program; and options for welfare reauthorization (e.g., restore equal access to public benefits and improve employment outcomes for immigrants and people with limited English proficiency). Overall, the 1996 restrictions have negatively impacted low-income immigrant families and their citizen children. An appendix presents immigration basics (admission to the United States, naturalization, and major immigrant categories). (SM)

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Shawn Fremstad

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IMMIGRANTS AND WELFARE REAUTHORIZATION

by Shawn Fremstad[1]

Until passage of the 1996 welfare law, legal immigrants were generally eligible for public benefits on the same basis as citizens. The welfare law conditioned eligibility on citizenship status rather than legal status, extending to most legal immigrants the eligibility restrictions that had traditionally applied only to undocumented immigrants. These unprecedented restrictions effectively redrew the boundaries of social membership in the United States.

The immigrant restrictions have proven to be among the most controversial aspects of the welfare law. In 1997, Congress restored Supplemental Security Income (SSI) to most immigrants who were already in the United States when the welfare law was enacted, and in 1998, it restored food stamp eligibility for immigrant children and for elderly and disabled persons who were here before August 1996. Legislation that would further restore benefits has been introduced in each subsequent session of Congress, although it has typically been limited to a specific program (food stamps), a specific population (domestic violence victims), or some combination of these two (Medicaid for pregnant women and children).

Support for restoring benefits crosses ideological and partisan lines. A report issued by the bi-partisan U.S. Commission on Immigration Reform subsequent to the welfare law's enactment recommended against denying benefits to legal immigrants solely because they are non-citizens.[2] Most of the legislation mentioned above was introduced or enacted on a bipartisan basis. President Bush's 2003 budget includes a proposal to restore food stamps to legal immigrants who have lived in the United States for five years. Bruce Reed, president of the Democratic Leadership Council and a strong supporter of the 1996 law in general, has called for a restoration of benefits for all legal immigrants.[3] Even Newt Gingrich recently stated that the restrictions on legal immigrants' eligibility for food stamps were "one of the provisions [in the welfare law] that went too far."[4]

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[1]A version of this paper will appear in a forthcoming edition of *Focus*, the newsletter of the Institute for Research on Poverty at the University of Wisconsin-Madison. Jan Blakeslee, the editor of *Focus*, provided helpful editorial suggestions.

[2]U.S. Commission on Immigration Reform, *Become an American: Immigration and Immigrant Policy* (Washington, D.C.: Government Printing Office, September 1997).

[3]Bruce Reed, "Staying Off Welfare for Good," N.Y. Times, January 4, 2002.

[4]Robert Pear, "White House Seeking to Restore Food Stamp Aid for Noncitizens," N.Y. Times, January 9, 2002.

Welfare reauthorization provides an opportunity to reconsider the restrictions and other immigrant provisions in the welfare law in a more comprehensive manner than has been undertaken to date. In addition, a somewhat neglected topic merits inclusion on the reauthorization agenda: the effect, on legal immigrant families who remain eligible for benefits, of the shift from Aid to Families with Dependent Children (AFDC) to Temporary Assistance for Needy Families (TANF).

Reconsideration of the welfare law's immigrant provisions is especially timely given the growing demographic importance of the immigrant population in the United States. The welfare law changes came at the same time as the immigrant population reached near-record levels while becoming more dispersed throughout the country.[5] A significant number of low-income children in the United States — more than one in five — now live in noncitizen families.[6] Children of immigrants face greater hardship levels than native-born children who do not have immigrant parents. Although immigrant unemployment rates fell at a greater rate than native unemployment rates during the 1990s, overall levels of hardship for immigrants remain high. Nationwide, 37 percent of all children of immigrants live in families that have worried about or encountered difficulties affording food, compared with 27 percent of natives. Children of immigrants are more than twice as likely to live in families that pay more than 50 percent of their income in rent or mortgage costs, and are four times as likely to live in crowded housing.[7] Thus continued progress in improving the well-being of low-income children in the United States will depend in no small measure on reducing poverty and improving other outcomes for children in immigrant families.

Immigrant Eligibility for Benefits

The eligibility of legal immigrants for public benefits now varies among federal programs and depends on a variety of factors, including date of entry to the United States, type of immigration status, work history, age, and state of residence. Legal immigrants who entered before August 22, 1996 are generally eligible for benefits, except for food stamps. (The food stamp program retains the most restrictive immigrant eligibility criteria of any of the major

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[5]According to researchers at the Urban Institute, the immigrant population in a group of 37 states that they refer to as "new immigrant states" grew twice as quickly as the immigrant population in the six states with the largest immigrant populations. Michael Fix, Wendy Zimmerman, and Jeffrey S. Passel, *Integration of Immigrant Families in the United States*, Urban Institute, July 2001.

[6]Some 22 percent of low-income children (that is, in families with incomes under 150 percent of poverty) lived in families headed by a non-citizen in 2000. CBPP calculations based on the March 2001 Current Population Survey.

[7]Randy Capps, *Hardship among Children of Immigrants: Findings from the 1999 National Survey of America's Families*, Urban Institute, February 2001.

federal means-tested programs, although provisions that may be adopted as part of the new Farm Bill would bring it more in line with other programs.)[8]

For those legal immigrants who entered on or after August 22, 1996, eligibility depends largely on immigration status upon admission to the United States. The largest immigrant group, immigrants admitted as lawful permanent residents (in most cases for family reunification purposes), is generally ineligible for benefits (as are a few additional categories of legal immigrants, such as certain immigrant victims of domestic violence).[9] Immigrants admitted for humanitarian purposes (refugees, people granted asylum, and a few other related categories) remain eligible, but for a limited time only.[10] While eligible for benefits, humanitarian immigrants represent only about 11 percent of the noncitizen population.

- Lawful permanent residents (LPRs) who entered the United States on or after August 22, 1996 are ineligible for food stamps and SSI until they become U.S. citizens or can be credited with 40 quarters of work. They are also barred from federal TANF and Medicaid until they have lived in the United States for five years after entering the country or, at state option, until they become U.S. citizens or can be credited with 40 quarters of work.[11] The restriction on immigrant eligibility in the TANF program applies not only to cash assistance but also to any means-tested benefit or service (with a few limited exceptions) provided with TANF funds, including job training and work supports.

- LPRs who entered before August 22, 1996 remain eligible for SSI (except for non-disabled elderly immigrants who were not receiving SSI on August 22, 1996) and, at state option, for TANF and Medicaid.

- Adult LPRs who entered before August 22, 1996 are ineligible for food stamps unless they are disabled, were aged 65 or older on August 22, 1996, or can be credited with 40 quarters of work.

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[8]The version of the Farm Bill passed by the Senate Agriculture Committee includes provisions that would allow legal immigrants who can claim 16 quarters of work history to qualify for benefits, restore eligibility to all legal immigrant children, lift the seven-year limit on eligibility for refugees and asylees, and restore eligibility to disabled legal immigrants who entered the United States after August 22, 1996. Dottie Rosenbaum, *Side-by-Side Comparisons of Food Stamp Provisions in Proposed Farm Bills*, Center on Budget and Policy Priorities, December 2001. In addition, the Bush Administration has proposed restoring food stamp benefits to legal immigrants who have resided in the United States for five years.

[9] A discussion of basic immigration concepts and immigrant categories is included as an appendix to this paper.

[10]In addition, immigrants who are U.S. veterans and active-duty service members and their spouses and children remain eligible for benefits.

[11]States may use TANF maintenance-of-effort (MOE) funds to provide benefits and services to legal immigrants.

- Refugees and asylees remain eligible during their first five (TANF) or seven years (food stamps, Medicaid, SSI) in the United States. After this initial period of eligibility, states have the option to either continue eligibility or to limit TANF and Medicaid eligibility to those immigrants who have obtained citizenship or can be credited with 40 quarters of work.

Before passage of the welfare law, immigrants with sponsors were subject to "sponsor deeming" in AFDC, the Food Stamp Program, and SSI during their first three years in the United States.[12] Under this requirement, the income and resources of an immigrant's sponsor were counted or "deemed" in determining the immigrant's eligibility for and amount of benefits. The 1996 welfare law continued and extended this requirement for sponsored immigrants entering the United States after December 1997. For these sponsored immigrants, deeming is now required until they obtain citizenship or have worked for 40 quarters. Moreover, for the first time, the new rules extend deeming to Medicaid. The law also provides that if a sponsored immigrant receives benefits in spite of the eligibility restrictions and sponsor deeming requirements, the agency that provided the benefits may sue the sponsor for reimbursement of the benefits.

The law gave states new authority to determine the eligibility of immigrants for both federal and state benefits. As noted above, states may opt not to provide federally funded TANF and Medicaid benefits to most legal immigrants regardless of when they entered the United States. The law includes language authorizing state-imposed restrictions on immigrants' eligibility for state-funded benefit programs.

At the same time, the law limits state authority in other areas. States and local governments may not provide public benefits, including nonemergency health care benefits, to immigrants who are not lawfully residing in the United States, unless they enact a state law after August 22, 1996 which "affirmatively provides for such eligibility." Nor may state and local governments restrict their employees from reporting any immigrants to the INS. This provision means that immigrant families cannot be sure that information they provide when applying for benefits for eligible family members, including citizen children, will be kept confidential.

Responses to the Immigrant Restrictions: State Governments and the Judicial Branch

States were faced with two immediate questions following passage of the welfare law. First, would they opt to continue providing federally funded TANF and Medicaid benefits for those legal immigrants who remained eligible? Second, would they create state-funded programs for those immigrants who were no longer eligible for federal benefits?

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[12]From January 1994 to September 1996, sponsored immigrants were subject to deeming in the SSI program for five years after entering the United States. The deeming period reverted to three years for immigrants receiving SSI as of September 1996, even for immigrants who were still within the previous five-year deeming period.

Most states decided to continue federally funded benefits where they had the option to do so. With respect to legal immigrants who entered the United States before the law's enactment, all states chose to continue TANF benefits and all states except Wyoming continue to provide Medicaid benefits. According to the National Immigration Law Center, for those legal immigrants who enter the United States on or after August 22, 1996 and have resided here for at least five years, five states (Idaho, Indiana, Mississippi, South Carolina, and Texas) have not yet chosen to provide federally funded TANF benefits and seven states (Idaho, Indiana, Mississippi, North Dakota, Texas, Virginia, and Wyoming) do not currently provide Medicaid benefits. In at least some of the states, most notably Texas, the question of whether to extend federally funded benefits to legal immigrants who enter the United States on or after August 22, 1996 remains under consideration.

Several states created state-funded benefit programs for legal immigrants. Seventeen states provide state-funded food stamps to some or all legal immigrants ineligible for federal benefits. However, in some of these states, eligibility is limited to very narrow categories of legal immigrants. Twenty-three states provide state-funded cash assistance to some or all legal immigrant families with children who are ineligible for federal benefits. Taken as a whole, however, the state-funded programs extend eligibility to only a limited portion of those immigrants who lost eligibility nationally as a result of the restrictions. Only nine states extend eligibility for food stamps to all immigrants who lost federal food stamp eligibility. Only 21 states extend TANF eligibility to almost all immigrants who lost federal TANF eligibility. Only eight states provide a complete or nearly complete restoration of both cash assistance and food stamps to legal immigrants, and just about one-third of noncitizens in the United States live in one of these states.

The provision of state-funded benefits does not appear to have acted as a "magnet" drawing immigrants from states that choose not to provide benefits to states that do provide them. In fact, during the 1990s, the states with the largest growth in immigrant populations were less likely to provide state-funded immigrant benefits than most states with lower immigrant growth rates.[13]

The restrictions on providing federally funded benefits to legal immigrants were challenged in several lawsuits, primarily on the grounds that the restrictions violated the equal protection guarantee of the U.S. Constitution. In each of these cases, the courts ruled that the restrictions were allowable under Congress's broad power to regulate immigration.[14] In March 2000, the U.S. Supreme Court denied a request to review one of the cases that upheld the federal restrictions. As a practical matter, these decisions leave any changes in the federal benefit restrictions up to Congress and the president.

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[13]Michael Fix, "Comment on George Borjas, Welfare Reform and Immigration," in *The New World of Welfare*, ed. Rebecca Blank and Ron Haskins (Washington, D.C.: Brookings Institution, 2001).

[14]See, e.g., *Chicago v. Shalala*, 189 F.3rd 598 (August 31, 1999).

Questions remain about the extent to which Congress can delegate authority to the states to discriminate against legal immigrants in setting eligibility criteria for state or federally funded benefit programs. Courts have generally held that state laws that discriminate on the basis of alienage are due much less deference than federal laws. In June 2001, New York's highest court ruled that the state cannot deny state-funded Medicaid to otherwise eligible legal immigrants.[15] The court based its decision on both the U.S. Constitution and the New York State constitution, which includes a provision that requires the state to provide aid to persons it has classified as needy. Although language in the welfare law explicitly authorizes state discrimination against legal immigrants, the New York court ruled that Congress does not have the power to authorize such discrimination.

Trends in Welfare Participation by Immigrant Households

During the last half of the 1990s, the percentage of immigrant-headed households receiving public benefits declined substantially. In 1994, 7.1 percent of households headed by a foreign-born person received AFDC cash assistance and 12.6 percent received food stamps; in 1999, 3.2 percent received TANF cash assistance and 6.7 percent received food stamps.[16] Participation declines among immigrants were steeper in states that provided a "less generous" safety net for those legal immigrants than in states that provided a "more generous" safety net. For example, food stamp participation (including participation in state-funded food stamp programs) by noncitizens in the "less generous" states fell by 55 percent, compared to a 32 percent drop in the "more generous" states.[17]

Michael Fix and Jeffrey Passel of the Urban Institute have conducted the most sophisticated recent analysis of participation trends among low-income, noncitizen-headed families with children. Using a methodology that allows them to distinguish between legal permanent resident household heads and refugee household heads, they find steep declines in TANF and food stamp utilization, especially among families headed by refugees, who mostly remain eligible for benefits.[18] Between 1994 and 1999, TANF participation by low-income

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[15]*Aliessa v. Novello*, 2001N.Y.Int. 59 (June 5, 2001), www.courts.state.ny.us/ctapps/decisions/73opn.pdf.

[16]Magnus Lofstrom and Frank Bean, "Labor Market Conditions and Post-Reform Declines in Welfare Receipt Among Immigrants," paper presented at Association for Public Policy Analysis and Management Conference, November 2001.

[17]George Borjas, "Food Insecurity and Public Assistance," Harvard University, May 2001, Joint Center on Poverty Research Working Paper 243. Borjas uses an index developed by the Urban Institute to classify states as more or less generous based on whether they opted to provide federally funded TANF and Medicaid benefits to legal immigrants and whether they established state-funded programs for legal immigrants.

[18]Michael Fix and Jeffrey Passel, *The Scope and Impact of Welfare Reform's Immigrant Provisions*, Urban

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families headed by legal permanent residents fell by 53 percent — roughly the same rate as for citizen families; food stamp utilization fell by 38 percent, a somewhat greater rate than for citizen families. Over those same years, TANF participation by low-income refugee-headed families fell by 79 percent, and food stamp utilization by 53 percent.

Although refugees historically had much higher participation rates than comparable citizen families, Fix and Passel find that their usage rates are now no different from the citizen rate. This is a striking finding, given that refugees come to the United States to flee persecution and are generally more disadvantaged than other immigrant groups. Special efforts are made upon their entry to the United States to connect them with welfare and social services, so that high levels of welfare usage would be expected.

Because most households headed by noncitizens include citizen members, particularly citizen children, household participation rates do not fully capture the effect of the eligibility restrictions on individuals. An estimated 940,000 immigrants receiving food stamps in 1997 lost eligibility for the food stamp program. The limited food stamp changes enacted by Congress in 1998 restored eligibility to about 250,000 of these immigrants, although significantly fewer actually returned to the food stamp rolls. According to administrative data from the U.S. Department of Agriculture, the number of noncitizens receiving federally funded food stamps fell by 60 percent between 1994 and 1999, from nearly 1.9 million to less than 750,000.[19] Food stamp participation overall also declined during that time, but at only modestly more than half the rate (35 percent) of the drop in noncitizen participation. Even though U.S. citizen children living with noncitizens remained eligible for benefits, their participation in the Food Stamp Program declined 42 percent, from nearly 1.9 million to less than 1.1 million.

Although the eligibility restrictions explain part of the decline in public assistance participation rates, especially in the Food Stamp Program, other factors clearly contributed to the decline. Between 1994 and 1997, cash welfare receipt (use of AFDC/TANF, SSI, and General Assistance) among noncitizen households fell by 35 percent compared to a 14 percent drop for citizen households, even though most legal immigrants remained eligible for cash welfare benefits during this period.[20] In California, where state funds were used to continue pre-welfare-

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[18](...continued)
Institute, January 2002.

[19]United States Department of Agriculture, *The Decline in Food Stamp Participation: A Report to Congress*, Washington, D.C., July 2001.

[20]Michael Fix and Jeffrey Passel, *Trends in Noncitizens' and Citizens' Use of Public Benefits Following Welfare Reform: 1994-97*, Urban Institute, March 1999.

law eligibility rules, immigrant participation fell at a faster rate than in the rest of the country between 1994 and 1999.[21]

At least part of the decline is likely due to confusion about eligibility and the "chilling effects" that welfare reform and immigration reform had on immigrant participation. These "chilling effects" included the anti-immigrant rhetoric surrounding the passage of Proposition 187 in California and the welfare and immigration reform legislation passed by Congress in 1996, and heightened concern among immigrants that public benefit usage would have a negative impact on their ability to adjust status or naturalize. Several studies have documented the widespread nature of these concerns among immigrants. One study conducted focus groups with low-income immigrants in four cities (Miami, New York City, Los Angeles\Orange County, and San Antonio) during the fall of 1999.[22] Many of the immigrants interviewed were concerned that receiving health care assistance from the government would slow down their application for citizenship or limit their ability to bring additional family members to the United States, and a few believed that they would be deported if they sought assistance. Guidance issued in 1999 by the Immigration and Naturalization Service addresses many of these concerns, but it remains to be seen whether issuance of the INS guidance has led to an actual reduction in the level of fear and misinformation about benefit use that exists in immigrant communities.[23]

In addition to the benefit restrictions and the other "chilling effects" of welfare reform, improvements in the labor market that were stronger for immigrants than for natives also may explain part of the decline. The gap between immigrant and native unemployment rates fell from 2.7 percentage points in 1994 to 1 percentage point in 1999. One study finds that the change in labor market conditions may explain some of the relatively greater decline in immigrants' participation in means-tested benefit programs in the late 1990s.[24] However, it seems unlikely that changing labor market conditions account for much of the overall decline in benefit use by immigrants. According to an Urban Institute analysis, only about one-quarter of the reduction in immigrants' use of TANF and food stamps between 1994 and 1999 is explained by changes in income.[25]

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[21]George Borjas, "Welfare Reform and Immigration," in *The New World of Welfare*, eds. Blank and Haskins.

[22]See, e.g., Peter Feld and Britt Power, *Immigrants' Access to Health Care after Welfare Reform: Findings from Focus Groups in Four Cities*, Kaiser Commission on Medicaid and the Uninsured, November 2000.

[23]*Field Guidance on Deportability and Inadmissibility on Public Charge Grounds*, 64 Fed. Reg. 28689 (May 26, 1999). For a discussion of the guidance, see Shawn Fremstad, *The INS Public Charge Guidance: What Does it Mean For Immigrants Who Need Public Assistance?*, January 2000.

[24]Lofstrom and Bean, "Labor Market Conditions."

[25]Fix and Passel, *The Scope and Impact of Welfare Reform's Immigrant Provisions*. Fix and Passel also found that increases in naturalization rates account for little of the decline in immigrants' benefit use.

Increases in Hardship and Uninsurance

There is now strong evidence that the eligibility restrictions have had an adverse impact on many legal immigrants and citizen children. The most striking evidence of hardship comes from a recent analysis of food insecurity trends conducted by Professor George Borjas of Harvard University, a researcher whose earlier work on immigrants' use of public benefits has been commonly cited by proponents of eligibility restrictions.[26] Borjas found that food insecurity rose significantly among immigrant-headed households in the 23 states that did the least to ameliorate the federal restrictions, while declining among immigrant-headed households in 28 states that provided more generous safety nets for immigrants. Households headed by recently arrived immigrants living in the less generous states saw the sharpest increase in food insecurity — 16.3 percent of households headed by newly arrived immigrants in the less generous states were food insecure in 1997-1998 compared to 11.3 percent of these households in 1994-1995 (see Table 1). In these same states, the percentage of food insecure households headed by native-born persons fell. Borjas also found that the decline in food insecurity was not due to differences in socioeconomic characteristics among the groups or changes in state-level social or economic conditions.

Table 1. Food Insecurity Trends in States with More Restrictive Public Benefit Eligibility Rules for Legal Immigrants

	Percentage of Food Insecure Households	
Immigrant Status	**1994-1995**	**1997-1998**
Natives	11.9%	10.6%
Non-citizens	18.9%	22.9%
Recent arrivals (non-citizens with no more than 3 years in the United States)	11.3%	16.3%

Source: George Borjas, Food Insecurity and Public Assistance, May 2001.

Insurance coverage for low-income immigrant families also has deteriorated since the passage of the welfare law. National data show that the number of noncitizen children and noncitizen parents receiving Medicaid fell by 7 to 8 percentage points between 1995 and 2000.[27] Moreover, the percentage of low-income, noncitizen children and parents who lack health insurance, including job-based insurance, increased by 6 to 7 percentage points, even as uninsurance rates for native children fell.

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[26]Borjas, "Food Insecurity and Public Assistance." A household is food insecure if it reports cutting back on the size of meals or skipping meals due to lack of income, or reducing food intake to such an extent that members experienced hunger.

[27]Leighton Ku, "Immigrants' Access to Health Insurance and Health Care in a Post-Welfare Reform Era," paper presented at Association for Public Policy Analysis and Management Conference, November 2001.

These early findings of increases in immigrant hardship levels came during a strong economy when a limited number of immigrants (except in the Food Stamp Program) were subject to the new benefit restrictions. The Urban Institute estimates that immigrants admitted after August 1996 now make up approximately one-third of the lawful-permanent-resident population.[28] This fact, combined with the adverse effect that the recent economic downturn is likely to have on immigrant employment levels, suggests that hardship levels for immigrant families could increase considerably in coming years.

Immigrants Who Remain Eligible for the TANF Program: How are they Faring?

In addition to imposing restrictions on legal immigrants' eligibility for public benefit programs, the 1996 law also replaced the Aid to Families with Dependent Children (AFDC) program with the Temporary Assistance for Needy Families (TANF) program.[29] The TANF program provides a block grant to the states, which use these funds to operate their own programs, consistent with general purposes set out in the federal law. States can use TANF block funds to provide a variety of benefits and services, including cash assistance, child care, transportation, and education and job training. Most families receiving TANF-funded assistance for ongoing basic needs must work or participate in work-related activities. The extent to which families can meet work requirements by participating in education and training activities is limited. Federal law also imposes a 60-month limit on receipt of federally-funded TANF basic needs assistance. States can adopted shorter time limits and many have done so (a few states have opted to not impose time limits).

About 11.7 percent of adult TANF cash assistance recipients were noncitizens in 1999.[30] There is a small body of research examining the experiences of immigrants and of persons who have limited English proficiency with TANF.[31] It suggests that some immigrants may be having difficulty navigating the new system.[32] While low-income immigrants (except refugees) are *less* likely to receive TANF benefits than low-income native-born persons, many of those immigrants who do receive TANF have significant barriers to employment, including low education and skill

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[28]Fix and Passel, *The Scope and Impact of Welfare Reform's Immigrant Provisions*.

[29]For general background on the TANF program, see Martha Coven, *An Introduction to TANF*, Center on Budget and Policy Priorities, January 22, 2002.

[30]U.S. Department of Health and Human Services, *Third Annual Report to Congress: TANF*. Washington, D.C., 2000.

[31]Some naturalized citizens and native-born persons (such as Puerto Ricans) also have limited proficiency in English.

[32]See Shawn Fremstad, *Immigrants and TANF: What do we Know?* Center on Budget and Policy Priorities, Washington, D.C., February 2002.

levels, and limited proficiency in English.[33] For some immigrants, religious beliefs or cultural norms may discourage female employment outside the home or the use of persons other than relatives for child care.

- Among foreign-born adult TANF recipients, 69 percent do not have a high school diploma or GED, as opposed to 37 percent of native-born adult recipients who do not have either credential.[34]

- A survey of Mexican and Vietnamese noncitizens receiving TANF benefits in late 1998 in Santa Clara County, California, the fifth largest county in California, found low levels of education and English proficiency. The immigrant women surveyed tended to be less educated, older, and less proficient in English than the average welfare recipient in California. Ninety percent of the Mexican participants and 68 percent of the Vietnamese participants had less than a high school education, compared to 53 percent of all women receiving TANF in the county. Forty-eight percent of the Mexican participants and 87 percent of the Vietnamese participants had "poor to no" proficiency in English.[35]

- The Economic Roundtable examined employment outcomes for AFDC participants in Los Angeles Country who left welfare between 1990 and 1997 and were reported to have found work.[36] The study found that persons with limited proficiency in English who left welfare for work earned 25 percent less in 1997 than those with good English ability. Among recent immigrants, English-language ability had a negative impact on earnings even after controlling for other factors such as education and previous work experience.[37]

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[33]In 1999, 8.7 percent of LPR-headed, low-income (under 200 percent of poverty) families with children received TANF cash assistance compared to 11.6 percent of citizen-headed, low-income families with children. Refugee-headed, low-income families with children receive TANF at roughly the same rate as citizen-headed, low-income families. Fix and Passel, *The Scope and Impact of Welfare Reform's Immigrant Provisions*.

[34]Karin Tumlin and Wendy Zimmerman, "What Does 'Work-First' Mean for Immigrants? A Look at Immigrants on Welfare in Three Cities," paper presented at Association for Public Policy Analysis and Management Conference, November 2001.

[35]Doris Ng, *From War on Poverty to War on Welfare: The Impact of Welfare Reform on the Lives of Immigrant Women*, Equal Rights Advocates, April 1999. Similarly, a study of Hmong TANF participants in Wisconsin found many barriers to employment among this extremely disadvantaged refugee group. Some 90 percent of Hmong respondents read little or no English and over 70 percent had little or no literacy in Hmong. Thomas Moore and Vicky Selkowe, *The Impact of Welfare Reform on Wisconsin's Hmong Aid Recipients*, Institute for Wisconsin's Future, December 1999.

[36]Daniel Flaming, Mark Drayse, and Peter Force, *On the Edge: A Progress Report on Welfare to Work in Los Angeles*, The Economic Roundtable, Los Angeles, CA, 1999.

[37]These findings are consistent with other social science research examining the effect of English language

(continued...)

In implementing the changes required by the 1996 welfare law, most states developed TANF programs that reflect a philosophy that is generally known as "work-first." The work-first philosophy emphasizes immediate attachment to labor force, with little or no concern for initial job quality, and limits access to skill-building activities such as education, training, and English-as-a-Second language (ESL) classes. Research suggests that work-first strategies have both strengths and weaknesses for the welfare population.[38] While work-first programs have generally led to short-term increases in employment and earnings, they have had less success when it comes to boosting wage rates and overall earnings. The most recent evaluation research conducted for the U.S. Department of Health and Human Services suggests that a "mixed strategy" combining an emphasis on employment with opportunities for developing skills is more effective when it comes to increasing earnings in the long run.[39]

It seems likely that the work-first approach has had similar mixed results for legal immigrants and limited-English-proficient persons as it has had for welfare recipients generally. A random-assignment evaluation of Los Angeles County's Jobs-First program (a precursor to L.A. County's current TANF program) found the program had positive employment and earnings effects on both English-proficient and non-English-proficient participants compared to control group members who did not participate in the program.[40] After two years, however, participants

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[37](...continued)
proficiency on employment outcomes for workers generally. One study found a 46 percent difference between the wage rates of immigrants who speak English and those who do not. After adjusting for other socioeconomic factors including education and work experience, English-speaking immigrants earned 17 percent more than non-English speaking immigrants. Barry R. Chiswick and Paul W. Miller, "Language in the Immigrant Labor Market," in *Immigration, Language and Ethnicity, Canada and the United States*, ed. Barry R. Chiswick (1992). Several studies have reached similar conclusions. An earlier study that looked only at Hispanics also found a 17 percent disparity after adjusting for other socioeconomic characteristics. Gilles Grenier, *The Effects of Language Characteristics on the Wages of Hispanic American Males*, 19 Journal of Human Resources 35 (Winter 1984). Other studies have found that non-English speakers are "pushed down" the occupational ladder compared to English speakers with the same socioeconomic characteristics, that as much as half of the relative wage growth experienced by immigrants in the first 20 years after arrival may be attributed to gains from learning the English language, and that non-English speakers have above-average levels of unobserved skills.

[38]Julie Strawn, Mark Greenberg, and Steve Savner, "Improving Employment Outcomes Under TANF," in *The New World of Welfare*, eds. Blank and Haskins.

[39]*How Effective Are Different Welfare-to-Work Approaches: Five-Year Adult and Child Impacts for Eleven Programs*, U.S. Department of Health and Human Services and U.S. Department of Education, prepared by Manpower Demonstration Research Corporation and Child Trends, November 2001.

[40]Stephan Freedman, Jean Tansey Knab, Lisa Gennetian, and David Navarro, *The Los Angeles Jobs-First GAIN Evaluation: Final Report on a Work First Program in a Major Urban Center*, Manpower Demonstration Research Corporation, June 2000. Jobs-First emphasized rapid employment and increased the amount of money participants could earn while remaining eligible for assistance (relative to previous AFDC rules in California). Most participants were assigned to job search as an initial activity. According to the evaluators, the program provided Spanish-language employment services and Spanish-speaking case managers. Speakers of other languages often
(continued...)

who were not proficient in English had lower employment and earnings, on average, than English-proficient participants, even though overall effects were larger for the group that was not proficient (see Table 2). These results suggest that work-first policies alone will not close the significant gap in employment outcomes between English-proficient and non-English-proficient participants. A "mixed strategy" that combines an emphasis on employment (while paying more attention to initial job quality than traditional work-first approaches) with opportunities for developing skills and English-language acquisition may prove more successful at narrowing this gap.

Table 2. Los Angeles County Jobs-First Impacts on Employment and Earnings by Level of English Proficiency

	Jobs-First	Control Group	Impact
Ever Employed in Years 1 and 2			
English-Proficient	69.3%	60.3%	9.0
Limited-English-Proficient	59.1%	46.7%	12.4
Average Total Earnings in Years 1 and 2			
English-Proficient	$8,479	$6,936	$1,543
Limited-English-Proficient	$6,169	$4,264	$1,905

Source: Manpower Demonstration Research Corporation.
Note: Dollar averages include zero values for sample members who were not employed.

Options for Welfare Reauthorization

In summary, the 1996 restrictions have clearly had a negative impact on low-income immigrant families and the many citizen children living in those families. In the labor market, immigrants gained ground in the 1990s, but food insecurity increased among those most likely to be affected by the changes, and health insurance coverage declined during the last half of the 1990s. States now bear a greater portion of the costs associated with providing a safety net to immigrants. The immigrants hit hardest by the law, those who entered after it was signed, are an increasing portion of the entire immigrant population.

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received case management in their native languages and sometimes received full employment services in their native languages.

The welfare law as a whole was designed to move families from welfare to work while continuing to provide a safety net and work supports. In a stark departure from this overarching purpose, the law conditions the provision of benefits to legal immigrants on citizenship status rather than work. For the most part, the immigrant restrictions also run counter to the law's emphasis on devolution, in that states are not able to use federal funds to provide Medicaid and TANF benefits to recent legal immigrants.

Immigrant families with children have lower income levels and higher hardship levels than native-born families with children. This disparity is not explained by lack of work effort or family structure. Most low-income children of immigrants live in working, married, two-parent families. Their parents have low-wage jobs with limited benefits. Work supports and other economic mobility policies could improve immigrants' position in the U.S. labor market and foster greater social integration, just as they have among the nonimmigrant low-income population. The immigrant eligibility restrictions are especially ill-conceived in that they limit the ability of states to extend work supports and economic mobility policies to low-income immigrants. The U.S. Commission on Immigration Reform made a similar point when it noted that "deny[ing] legal immigrants access to . . . safety nets based solely on alienage would lead to gross inequities between very similar individuals and undermine our immigration goals to reunite families and quickly integrate immigrants into American society."[41]

Welfare reauthorization offers an opportunity to rethink the restrictions and bring them more in line with the law's overall emphasis on work-based reform.

Restore Equal Access to Public Benefits

Legal immigrants should have the same access to public benefits as U.S. citizens (subject to reasonable sponsor deeming requirements, as discussed below). As taxpayers, immigrants help to pay for the costs of education, roads, national defense, and providing benefits and services to low-income families. They should not be excluded from programs that could help them attain skills needed to advance in the labor market and that provide them a safety net when temporary hardship interrupts their employment. If TANF and Medicaid benefits are not fully restored, at a minimum the reauthorizing legislation should lift restrictions imposed by the 1996 law on the flexibility of states to provide federally funded TANF and Medicaid benefits to recently arrived immigrants.

Effective work supports and welfare-to-work programs could help speed the economic mobility and integration of legal immigrants. Given that TANF already includes mandatory work requirements and a five-year limit on assistance, both of which apply regardless of immigration status, additional eligibility restrictions that apply specifically to immigrants serve no useful purpose.

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[41]United States Commission on Immigration Reform, *U.S. Immigration Policy: Restoring Credibility, 1994 Report to Congress* (Washington, D.C.: Government Printing Office, September 1994).

Retain Sponsor Deeming in Cash Assistance Programs and Food Stamps, Subject to Reasonable Limits

Sponsors clearly should have some responsibility for helping the immigrants they sponsor to settle in the United States, locate housing, obtain employment, and meet basic subsistence needs during their first few years here. However, deciding the appropriate length and scope of a sponsor's responsibility presents more difficult questions. Should a sponsor's responsibility last indefinitely? Does it extend beyond ensuring that basic subsistence needs are met to providing goods that cannot be easily obtained in the private market, such as health insurance? Should it apply even when an unforeseen circumstance, such as a disabling condition or temporary job loss, limits the earnings ability of a sponsor or a sponsored immigrant? Do sponsors have an obligation to support unsponsored members of an immigrant's family, such as U.S. citizen children born after a sponsored immigrant was admitted to the United States? Should a sponsor's obligation vary depending on the circumstances and abilities of the immigrant they are sponsoring (for example, should a sponsor have a greater obligation if they are bringing in an elderly parent than if they are sponsoring an younger, able-bodied person)?

The new deeming rules mandated by the 1996 welfare law do not represent a nuanced approach to these complicated issues. Instead, by extending sponsor deeming requirements until citizenship and holding sponsors liable for any benefits provided, including health care benefits, the new deeming rules effectively shift the full burden of immigrant support indefinitely onto sponsors regardless of individual circumstances. As the U.S. Commission on Immigration Reform noted, "the responsibility of petitioners of younger immigrants is so open-ended [under the welfare law] that it does not provide a realistic or fair set of obligations."[42]

Sponsor deeming should be subject to reasonable limits on the length of the deeming period and the scope of the sponsor's obligation. In the TANF and Food Stamp programs, one option would be to return to the previous deeming rules that applied to these programs, including the three-year limit that these rules placed on sponsor deeming. Requiring deeming for the first three years would ensure that a sponsor bears the primary support obligation during an immigrant's initial resettlement period while placing a reasonable limit on the length of that obligation. More stringent rules may be merited in SSI, although there should be good cause exceptions for immigrants who became blind or disabled after entry. In all programs, income should only be deemed after an amount to meet the sponsor's own basic needs is excluded. Efforts also should be made to ensure that the deeming rules can adjust when the circumstances of the sponsor change substantially.

Finally, while deeming rules should apply to cash and food assistance benefits, they are inappropriate in health care programs. The private market for health care in the United States is such that few sponsors can reasonably be expected to purchase coverage for sponsored immigrants. In TANF, deeming should apply to cash assistance benefits, but not to the full scope

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[42]U.S. Commission on Immigration Reform, *Become an American: Immigration and Immigrant Policy* (Washington, D.C.: Government Printing Office, September 1997).

of services, such as child care and employment services, funded with TANF resources. An immigrant who is ineligible for cash assistance solely due to sponsor deeming should have the same access to TANF-funded services as other cash assistance recipients.

Some may object that limiting sponsor deeming will result in the displacement of private support by sponsors with public assistance. Such a result is unlikely. Recent research finds that for immigrants public assistance complements private support rather than displacing it, and in some cases, private non-financial support actually increases with the provision of public assistance.[43]

Improve Employment Outcomes for Immigrants and Persons with Limited Proficiency in English

The low employment and earnings levels of immigrant TANF recipients are largely due to immigrants' low skills and levels of English proficiency. The following changes would improve employment outcomes for immigrants and limited-English persons:

- English-as-a-second-language (ESL) instruction and other language acquisition activities should be included as a separate work activity that is countable toward the first twenty hours of a TANF recipient's work requirement.[44] Because traditional classroom ESL approaches may not be well-suited to meet the demands of welfare reform, states should be encouraged to develop vocational ESL programs, support work-based English-language instruction, and integrate language acquisition activities with job skills training.

- Congress should provide grants to states and localities for research, planning, technical assistance, and demonstration projects to promote and fund best practices in the following areas: improving employment and earnings outcomes for low-income, limited-English-proficient persons, increasing their English proficiency, and enhancing the linguistic and cultural competence of staff in TANF and child care services generally.

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[43]Lingxin Hao, "Public Assistance and Private Support of Immigrants," Johns Hopkins University, October 2000, Joint Center for Poverty Research Working Paper 171. This study examined the relationship between AFDC receipt and private financial, housing and transportation support.

[44]Although most states allow some limited-English-proficient persons to participate in ESL courses, anecdotal and other reports suggest that access is limited in many states. This may be in part because the TANF law does not explicitly list ESL as a work activity that counts toward state work participation rates. There are limitations on the extent to which the federal activities that most clearly encompass ESL (job skills training and education related directly to employment, job readiness assistance, and vocational education) can count toward these participation rates.

Conclusion

Congress has revisited the immigrant restrictions in the welfare law annually and in piecemeal fashion since 1996. Welfare reauthorization provides an opportunity to reconsider the restrictions in a more comprehensive and integrated manner. Congress should restore equal access to benefits, while leaving reasonable deeming rules in place. For those immigrants who are eligible for benefits, a greater emphasis should be placed on improving earnings and employment outcomes. This will require the redesign of existing programs to ensure that they help immigrants overcome barriers to advancement, including limited English proficiency, low skills, and limited acculturation.

APPENDIX

Immigration Basics: Admission to the United States, Naturalization and Major Immigrant Categories

Persons seeking to become legal immigrants generally follow one of two paths depending on their residence. Persons living abroad apply for an immigrant visa at a consular office of the Department of State. After receiving a visa, they may enter the United States and become legal immigrants when they pass through a port of entry. Persons already living in the United States, including refugees, asylees, and certain undocumented or temporary immigrants, file an application for adjustment of status with the Immigration and Naturalization Service.

Immigrants seeking to become citizens through naturalization must reside in the United States for five years after having been granted permanent residence.[45] To obtain citizenship, they must demonstrate good moral character, attachment to U.S. principles, a basic understanding of U.S. history, and an ability to read and write simple words and phrases. Some longtime residents and persons with disabilities are exempt from the English language and civics requirements.

Even after an immigrant has resided in the United States for five years as a permanent resident and is eligible to file an naturalization application, INS processing delays can add one or more years to the naturalization process. A recent report by the General Accounting Office found that among naturalization applicants whose applications were pending, about 41 percent, or about 335,000 applicants, had been waiting at least 21 months for INS to decide their case. In the Los Angeles and New York districts, 59 and 92 percent of naturalization applicants, respectively, had been waiting at least 21 months.[46]

Immigrants who are not naturalized citizens fall into several dozen legal categories, with the rights of immigrants varying considerably from category to category. The vast majority of legal immigrants are *lawful permanent residents (LPRs).* Lawful permanent residents (LPRs) have many of the same rights and responsibilities as U.S. citizens. LPRs are automatically authorized to work in the United States and after five years of continuous residence in the United States can apply to become U.S. citizens through naturalization.

The majority of LPRs have been admitted to the United States as *family-sponsored immigrants.* A U.S. citizen can sponsor his or her foreign-born spouse, parent (if the sponsor is over the age of 21), minor and adult married and unmarried children, and brothers and sisters. An LPR can sponsor his or her spouse, minor children, and adult unmarried children.

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[45]Certain spouses of U.S. citizens may naturalize after three years of residence as LPRs. Immigrant children of U.S. citizen parents generally may naturalize without any length of residence.

[46]General Accounting Office, *Immigration Benefits: Several Factors Impede Timeliness of Application Processing*, May 2001.

Approximately 475,000 family-sponsored immigrants were admitted to the United States in 1998.[47] There are several other avenues to LPR status, including *employment-based immigration* and *diversity visas*. A U.S. employer can sponsor an individual for a specific position where there is a demonstrated absence of U.S. workers. Up to 140,000 immigrants can be admitted each year based on offers of employment. The United States provides *diversity visas* to about 55,000 immigrants each year from countries considered to have been previously underrepresented due to immigration quotas.

Refugee and *asylum* status represent the other significant avenues to LPR status. An alien may be admitted as a *refugee* if he or she has a "well-founded fear of persecution" in his or her home country on account of race, religion, membership in a social group, political opinion, or national origin. About 90,000 refugees are permitted to enter the United States each year. An alien who has already entered the United States may qualify for *asylum* status if they have a well-founded fear of persecution. About 13,500 asylum applications were approved in 1998. After one year in the United States, refugees and asylees may apply to become LPRs. The number of asylees who can adjust to LPR status each year is capped at 10,000.

There are several other categories of immigrants who are considered to be "lawfully residing in the United States." While immigrants in these categories may not be automatically eligible to adjust to LPR status, as a practical matter they are often permanently residing in the United States.

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[47]U.S. Department of Justice, Immigration and Naturalization Service, *1998 Statistical Yearbook of the Immigration and Naturalization Service*, Washington, D.C., November 2000.